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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,356	01/28/2004	Brian L. Patterson	200208247-1	4878

22879 7590 10/27/2008	EXAMINER	
HEWLETT PACKARD COMPANY	SENSENIG, SHAUN D	
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INTELLECTUAL PROPERTY ADMINISTRATION	ART UNIT	PAPER NUMBER
FORT COLLINS, CO 80527-2400	3629	

NOTIFICATION DATE	DELIVERY MODE
10/27/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/767,356	PATTERSON ET AL.
	Examiner	Art Unit	
	Shaun Sensenig	3629	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-13 and 35-47* is/are pending in the application.

    4a) Of the above claim(s) *none* is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-13 and 35-47* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>20080714</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20081012

DETAILED ACTION

This action is in response to papers filed on August 22, 2008.

Claims 1, 11, and 12 have been amended.

Claims 14-34 have been cancelled.

Claims 35-47 have been added.

Claims 1-13 and 35-47 are pending.

Information Disclosure Statement

1.   The listing of references in the specification is not a proper information disclosure

statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other

information submitted for consideration by the Office, and MPEP § 609.04(a) states,

"the list may not be incorporated into the specification but must be submitted in a

separate paper." Therefore, unless the references have been cited by the examiner on

form PTO-892, they have not been considered (Brian L. Patterson et al., U.S. Pat. App.

Serial No. 10/457,868).

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-7, 9-13, 35-41, and 43-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Tohyama (Pub. No. US 2002/0091645 A1) (hereafter referred to as Tohyama).

3.   In regards to **Claims 1 and 35**, Tohyama disclose:

A system and method of computing, comprising: at a processor in a storage network: receiving a service request from a user of the storage network; ([0009], lines 9-20)

determining an amount of credit available on a local media for the user of the network; (**[0049], lines 1-11,** *shows use of credit information saved on a media*)

 implementing the service request at the processor when the amount of credit is sufficient to execute the service request; (**[0049], lines 1-11,** *shows use of credit information saved on a* media, and **[0053], lines 33-45,** *shows services implemented in exchange for payment*) and

when the amount of credit is insufficient to execute the service request; (**[0049], lines 1-11,** *shows use of credit information saved on a* media, and **[0053], lines 33-45,** *shows services implemented in exchange for payment*)

generating, in response to the received service request, a token request for a service token; ([0009], lines 9-20) and

transmitting the token request to a server communicatively connected to the storage network; and at the server: ([0009], lines 9-20)

validating the token request; ([0009], lines 9-20)

transmitting to the processor a response to the validated token request; ([0009], lines 9-20) and

invoking the service request when, the response to the token request includes at least one service token. ([0009], lines 9-20)

In regards to **Claims 2 and 36**, Tohyama disclose:

A system and method of computing, wherein the service request is generated by at least one of a user of a device in the storage network or by a processor communicatively connected to the storage network. ([0009], lines 9-20)

In regards to **Claims 3 and 37**, Tohyama disclose:

A system and method of computing, wherein the service request comprises a request for at least one of a data mirroring service, a remote copy service, a back-up service, a recovery service, or a LUN extension service. ([0009], lines 9-20)

In regards to **Claims 4 and 38**, Tohyama disclose:

A system and method of computing, wherein generating a token request comprises retrieving at least one account identifier for an account associated with a device in the storage network. ([0009], lines 9-20 and S216 and 0124, lines2-6)

In regards to **Claims 5 and 39**, Tohyama disclose:

A system and method of computing, wherein generating a token request comprises incorporating into the token request information identifying the service request. ([0009], lines 9-20)

In regards to **Claims 6 and 40**, Tohyama disclose:

A system and method of computing, wherein validating the token request comprises validating the at least one account identifier associated with the service request. ([0009], lines 9-20 and S216 and [0124], lines2-6)

In regards to **Claims 7 and 41**, Tohyama disclose:

A system and method of computing, wherein validating the token request comprises determining whether the account associated with the at least one account identifier comprises sufficient credit to receive a token. ([0051], lines14-17)

In regards to **Claims 9 and 43**, Tohyama disclose:

A system and method of computing, wherein the response to the token request comprises at least one of: an account identifier; an account balance; a code, decipherable by the processor, granting or denying permission to invoke the service call; and a software module, executable by the processor, for invoking the service call. ([0009], lines 9-20 and S216 and [0124], lines2-6)

In regards to **Claims 10 and 44**, Tohyama disclose:

A system and method of computing, further comprising updating account information at the processor in the storage network. ([0098], lines25-26)

In regards to **Claims 11 and 45**, Tohyama disclose:

A system and method of computing, wherein the response to the token request comprises a software module, executable by the processor, for invoking the service call. (**[0014], [0048], and [0086], *shows software that performs steps up to and including invocation of a service call (making requested software accessible)*)**

In regards to **Claims 12 and 46**, Tohyama disclose:

A system and method of computing, wherein the processor in the storage network;

Receives the response to the token request; (**[0086], lines 9-14,** *shows a response to a pass (token)*) and

executes the software module to invoke the service request. (**[0086], lines 9-14,** *shows software invoking a service call (making requested software accessible) due to a response to a request*)

In regards to **Claims 13 and 47,** Tohyama disclose:

A method of implementing fee-based storage services, wherein the processor maintains account information associated with one or more storage devices, and wherein the processor updates account information to reflect execution of the service request. (**[0124], lines 23-27,** *shows account being "updated to reflect execution of the service request" ("updates license validity") wherein the account information is associated with a storage device (database on the server)*)

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.	**Claims 8 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tohyama, in view of Mutschler et al. (Pub. No. US 2002/0069148 A1) (hereafter referred to as Mutschler).**

In regards to **Claims 11 and 45**, Tohyama disclose:

Tohyama discloses A system and method of computing, as applied above in the rejection of claims 1, 4, 5, and 7 under 35 U.S.C. 102(b), but Tohyama does not disclose retrieving information from a third-party credit bureau. However, Mutschler teaches a similar system that also includes:

A system and method of computing, further comprising retrieving information from a third-party credit bureau (0015, lines 5-9).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Tohyama to include retrieving information from a third-party credit bureau , in accordance with the teachings of Mutschler, in order to accurately and efficiently manage user accounts.

Response to Arguments

6.	Applicant's arguments filed August 22, 2008 have been fully considered but they are not persuasive.

Rejection of Claims 1-13 under 35 U.S.C. §102 and 35 U.S.C. §103

Applicant argues that the references do not discloses or suggest combination of the elements in the prior art in view of the amendments. The prior art applied is analogous art, as it applies to the same problem being addressed as the applicant's

claims, and it would have been obvious to one of ordinary skill in the art, at the time of the invention, to combine the elements taught in the references without unpredictable results. The amended claims do not include any material that would add unpredictability to the combination of elements.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun Sensenig whose telephone number is (571) 270-5393. The examiner can normally be reached on Monday to Thursday 7:30 to 5:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. S./
Examiner, Art Unit 3629
October 16, 2008

/John G. Weiss/
Supervisory Patent Examiner, Art Unit 3629